IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1434 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHHAGANBHAI KODARBHAI

Versus

DIST SUPERINTENDENT OF POLICE

Appearance:

1. Special Civil Application No. 1434 of 1992

MR IS SUPEHIA for Petitioner No. 1

MR HV CHHATRAPATI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 06/10/2004

ORAL JUDGEMENT

1. In this petition, the petitioner has challenged the order dated 25-11-1991 by which recovery of Rs.20,055.25p. was sought to be made in installments from the salary of the petitioner. The said recovery was

sought to be made by the Government on the ground that the petitioner had unauthorizedly occupied the Government Quarter beyond the permissible limits even after retirement and allotment of another quarter. Besides, other grounds, the petitioner has urged that the impugned order was passed without affording any opportunity of being heard to the petitioner. The petitioner has also urged that he had vacated the premises at Gandhinagar on 16-6-1992 and had handed over the vacant possession of the premises to the concerned authorities, and he would, therefore, be entitled to receive House Rent Allowance until such time he may be allotted Government accommodation at the place of his new posting. He has, therefore, urged that the order of the Government seeking to recover the rent from the petitioner is illegal when the Government itself has not paid him the legally permissible House Rent Allowance. In the affidavit-in-reply, it is not denied that the petitioner was not given any hearing before passing the impugned order Annexure "A". Thus, on the short ground of violation of principles of natural justice, the impugned order Annexure "A" deserves to be quashed and set aside. Accordingly, the order Annexure "A" is hereby quashed and set aside. The respondents are, however, permitted to pass fresh orders in accordance with law after hearing the petitioner. Since the petition is being allowed only on the ground of violation of principles of natural justice this Court has not expressed any opinion about the merits or demerits of the rival contentions.

In the result, the petition is allowed to the ahove extent. Rule is made absolute.

(Akil Kureshi,J.)

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